

REMARKS

The Examiner did not indicate in the Restriction Requirement mailed July 12, 2004 whether the previous restriction requirement, mailed March 23, 2004, had been made final, or whether the Examiner had reconsidered that restriction requirement in view of Applicants' traversal mailed April 23, 2004. Since the Examiner did not indicate on page 1 of the July 12, 2004 Restriction Requirement that claims from other than Group IV (Claims 30-33 and added Claim 38) had been withdrawn from consideration, Applicants have assumed that the previous restriction requirement has been withdrawn.

Claims 1-3, 19-24, 28-34 and 38 are generic and upon allowance of a generic claim, Applicants will be entitled to consideration of claims to species in addition to the elected species which are written in independent form or otherwise include all the limitations of an allowed generic claim. As noted in the Response mailed April 23, 2004, the claims of Group IV (Claims 30-33), drawn to kits comprising a gastrin/CCK receptor ligand and an EGF receptor ligand, are novel and unobvious because the pharmaceutical composition comprising a gastrin/CCK receptor ligand and an EGF receptor ligand, and a pharmaceutically acceptable carrier is patented (*see USPN 6,288,301, Claim 7*). Likewise, the claims of Group III (Claims 20-22, 24, 28-29, and 34-35), drawn to methods for obtaining an expanded population of insulin secreting beta cells *ex vivo*, are methods of using a patented compound and therefore are themselves novel and unobvious. Also, the claims of Group I (Claims 1-3, 19, and 23), drawn to methods of treating diabetes by administering a gastrin/CCK receptor ligand and an EGF receptor ligand, are methods of using a patented compound and therefore are themselves novel and unobvious.

PATENT

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CONCLUSION

In view of the above response, it is submitted that this application is now ready to proceed. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (831) 648-3090.

Respectfully submitted,

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